Lin v. MetLife

07 civ. 3218

EXHIBIT P

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JEAN LIN,

Plaintiff,

vs.

METLIFE INSURANCE COMPANY,

Defendant.

No. 07CV3218

ORIGINAL

DEPOSITION OF LOUIS M. ALEDORT, M.D.
New York, New York
Monday, June 2, 2008

Reported by:
NICOLE AMENEIROS, RPR
JOB NO. 203062

specialist.

Q. Can you explain that just for the jury what you mean?

A. A lot of liver disease patients wind up having major blood abnormalities for which they send them to me from the liver people, from the liver pathology people, the liver disease people, and then there are -- people come from general internists who haven't even recognized that the blood disease they gave -- sent me were in hep B patients who happen to have the blood problems secondary to the hep B.

Q. I guess what I'm trying to understand is whether you would treat those patients for their liver or would you recommend them to see a specialist to treat their liver?

A. That's a different question than you asked me.

Q. Okay.

A. Totally different. And I made it clear from the beginning I do not give the treatment. I manage them as their overall person, or I manage the blood from that particular patient, and the treatment would come

from the liver people as part of this team.

Q. And the liver people would mean hepatologist or gastroenterologist?

A. Hepatology. I would never send to a general gastroenterologist, only to a hepatologist who spends their whole time worrying about liver and treating liver disease.

Q. Can you explain the difference between a hepatologist and a gastroenterologist?

A. I thought I did before. A gastroenterologist is like a general hematologist, has to know all the different parts of the GI system to pass the exam, but many of them then track in different ways. And those who track in liver take special years in liver and that's what they do the rest of their life.

Q. So would you agree then that a hepatologist is at the top of the food chain with respect to the liver disease?

MR. TRIEF: Object to the form of the question. You can answer if you understand.

A. Food chain? I don't know what that

A. I can't swear to the pages, but if you say so it's fine. Yes.

Q. And you have written over 300 articles, correct?

A. Yes.

Q. What is the general subject matter of your articles if you can say?

A. The bulk of my articles are related to diagnosis, treatment, safety and efficacy of biologics, the epidemiology of transfusion, transmitted diseases in blood transfusion recipients, hemophilia patients and Von Willebrand's Disease patients.

Q. Anything else?

A. Yes, the economics of healthcare and the delivery of healthcare.

Q. Are any of your articles about hepatitis B?

A. Yes.

Q. Which ones?

A. I can't tell you them. They're all -- everything related to the epidemiology of the -- anything related to the transfusion transmitted disease grants from the NIH and the

hep C epidemiology from the National Institute of Cancer, which there are loads of publications, all relate HIV, hep C, hep B, interrelationships on outcome of patients when they got infected, how long they are infected, when they die, how they die, the role of hepatitis as an adjunct to HIV disease, the interrelationship of HBV to HCV.

Q. Other than in those contexts that you have just described do any of your articles relate to the treatment of hepatitis B?

A. No.

Q. Are any of your articles about liver disease?

A. Yes.

Q. Which ones?

A. All the articles that relate to HIV, HCV and hep B, all those articles the major cause of death in those people were liver disease.

Q. Are any of your articles about the treatment of liver disease?

A. Yes. All the ones about HCV from the NCI, which is the epidemiology of HCV and these

wouldn't have found something in his stomach if he didn't look at everything. So I would say he's probably a good internist and hepatologist, but there's nothing in the record except that he found something that he looked for.

Q. Why was Mr. Lin to your knowledge seeing Dr. Kam every six months after his treatment with interferon?

A. As I stated before, because it's the recommended follow up of somebody who has successfully treated with -- for his hepatitis B.

Q. And at all times that Mr. Lin was seeing Dr. Kam wouldn't you agree that at all times he was a hepatitis B carrier?

A. Not at all times. His E antigen was negative for a short period of time and then reverted back.

Q. What about the surface antigen?

A. It almost never goes away even if you're -- even if you don't have any virus. It only goes away about five percent of the cases treated successfully even today.

Q. So would you agree that at all times

the record that Dr. Kam or his deposition said this man has chronic hepatitis B. He said that he's a carrier, but he never used the term chronic hep B. Now, it doesn't mean he didn't think so when he first saw him day one and he started him on treatment.

Q. In your opinion after reviewing the records of Dr. Kam was Mr. Lin someone who had chronic hepatitis B?

A. When he was first seen, yes.

Q. And then he changed?

A. I think he's in remission. He's a carrier.

Q. And during the entire time that Mr. Lin saw Dr. Kam he wasn't -- he was a hepatitis B carrier, correct?

A. No, because he had that period when he went -- where he looked like he got rid of everything, the E antigen became negative, big circle from Dr. Kim or Kam, however he pronounces it, in the chart that he was very excited and then later it was negative -- was positive.

cured of hepatitis B, correct?

A. Correct, that's what I wrote.

Q. Now, what is the time period that he was treated and monitored by Dr. Kam?

A. From the time he finished interferon until he was sent to be treated for his cancer.

Q. And that was until --

A. It's all in my note. He was finished in February and then he was followed to '05 and then he was sent off to be treated by some other specialist in his stomach cancer.

Q. You stated that because his hepatitis B was no longer active, quote, there was no impact on his longevity or survival, correct?

A. Correct.

Q. Do you still agree with that statement as we sit here today?

A. 100 percent.

Q. Isn't it a fact that as a hepatitis B carrier there is a significant risk of developing liver cell cancer?

A. No. Not significant. There is absolutely not a single piece of literature that corroborates they are significantly at risk

higher than within the general population for hep -- for hepatocellular carcinoma if they are in the category he's in. No virus detection, hep B antigen positivity and less than 20,000 viral particles.

Q. Since you said significantly let me ask you the question a different way. Wouldn't you agree that there is at least a minimally greater risk for a hepatitis B carrier than in the general population?

A. The minute you use the word minimal then you have to look at statistics. If minimal is with not statistically significant then it's not something you could put your hat on.

Q. Okay. Would you agree -- let's not qualify it --

A. It's very important to --

Q. -- that the risk is higher, in any way higher.

A. No, it's slightly higher that no one in the field thinks of it except to monitor because there is always an oddball guy that's going to get it so that's why you monitor.

Q. So --

A. There are no data to support that it is simply higher.

Q. Is there data to support that the risk is higher though?

A. There's no data to say that it's so minimal that no one would consider it of importance, but they follow it so that you don't get a resurgence of the disease which if active will certainly give you a higher likelihood and you can now knock it down with new drugs --

Q. Now --

A. -- which you couldn't do before you had new drugs.

Q. Now, you've given me a copy of the expert report of Dr. Clain which you stated that you reviewed, correct?

A. Yes.

Q. And he included some articles as exhibits to his --

A. I know.

Q. -- report. Did you take a look at those articles as well?

A. If they're not there I probably didn't read them specifically.

monitored for reactivation as well as cancer?

MR. TRIEF: Objection to form of the question. You can answer.

A. Again, I'm just adding. Why would I object to something that's already there if all I'm doing is adding something?

Q. Do you have any other comments to section three?

A. Nope.

Q. What about section four?

A. Yes.

Q. Should we do it paragraph --

A. No, only the last paragraph.

Q. Okay.

A. It is inaccurate statement was and always remained at significant risk of death from liver cell cancer after his interferon treatment. He used the data inaccurately.

Q. What do you disagree with in that sentence, the word significant?

A. You're darn right.

Q. Okay. Would you agree that Mr. Lin remained at a risk of death from liver cell cancer?

A. A minimal, minimal, and it's the same statements I've made throughout. He has exaggerated this well beyond his own references as well as the literature he based it on.

Q. Would you agree that this minimal risk was over and above the ordinary risk of liver cell cancer in the general population due to his status as a hepatitis B carrier?

A. Minimal is not significant and very hard to differentiate from the general population. That's the reason everybody looks for statistical significance versus not. If it's not statistically significant it may not in any way be greater than the general population.

Q. So I just want to make sure I understand --

A. I didn't finish my sentence.

Q. Okay.

A. Particularly in a patient without cirrhosis, which he did not have, which is also frequently left out of this whole discussion, but I'm not going to make a big issue out of it.

Q. I just want to make sure I understand your answer. Do you believe that Mr. Lin was at

a minimally greater risk of having liver cell cancer than the general population?

MR. TRIEF: That was just asked. It was just asked a second ago.

MS. SHERER: I didn't hear it.

A. My answer is probably not an elevation, but they all talk about it but since there are no statistics it may be within the range of the normal population which is what I said all the way along therefore the -- there is enormous education of the cancer issue which is all this statement keeps -- his whole statement keeps focusing on.

Q. Now, I did hear you say that you felt that it was exaggerated, but what I'm trying to figure out from you is whether you think there is any additional risk or not?

A. And I made it clear that no one is sure.

Q. So you don't know?

A. No one knows.

Q. Do you know Dr. Clain professionally or otherwise?

A. Absolutely not.

Aledort

Q. Would you agree with even part of it?

A. Yes.

Q. Which part?

A. Everything but the chronic hepatitis B. He's a carrier which is very different from saying you have chronic hepatitis B. You should use the word carrier because the chronic hepatitis B implies the liver disease, etc., etc.

Q. Now, isn't it true that one of the medical records that I showed you from Dr. Kam's office indicated that Mr. Lin had chronic hepatitis B? And I'll reshow it to you.

A. No, no. What it is it's the radiology report from a guy who used that term without knowing what he was told or what it is. There's nothing in the record that says I told this man and I believe he has chronic hep B. He just says I told the patient he was cured.

Q. Let me ask it to you this way, if it appears in other records of Dr. Kam's that Dr. Kam thought that Mr. Lin had chronic hepatitis B would you disagree with that?

MR. TRIEF: Objection.